

Notes on Blight Fighting Techniques Authorized by Statute
Virginia Housing Commission
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The Commission charged the Derelict Structures Work Group with the responsibility for evaluating the problem of vacant derelict structures and identifying tools that local government needs to combat the problem effectively. The study is to consider other states' policies and compare effective versus ineffective policies in identifying possible solutions in Virginia. In addition to considering bills addressing aspects of the derelict property question, identical joint resolutions ask the Commission to give special attention to the problem of vacant [and abandoned] residential units in dense urban settings. The resolutions ask the Commission to quantify socio-economic impacts associated with these properties while considering the property rights of affected parties.

Vacant, abandoned, often tax-delinquent and otherwise “derelict” properties have long been a thorn in the side for many of the Commonwealth’s older central cities, inner-ring suburbs, and some smaller or rural communities. As part of our contribution to the work group, we are providing information about some of the methods that are currently available for localities to respond to properties whose condition may detract from the quality of life and property values of a community, present verifiable threats to public health and safety, and undermine local economic and community development efforts. To that end, we have provided staff with material that summarizes various powers that statutes have granted to localities and citizens that may be applicable to the circumstances of blighted or derelict properties. We also examine some of the terms and definitions that may be relevant to the study.

However, before briefly reviewing this material, it is important to note that the question of vacant, abandoned or derelict property has taken on some new dimensions in the past year. It is not now, if it ever truly was, solely an issue for cities. The wave of foreclosures that has rolled across many areas of the state—encompassing cities, suburbs,

and towns--has increased the number of properties that are certainly vacant, possibly tax delinquent, and potentially a blight on the surrounding community. While they may not technically be abandoned, they sometimes appear to be orphans caught in a limbo extending through various stages of the foreclosure process. What is certain is that they have become a new source of concern for the neighbors; for community associations contending with unkempt lawns, peeling paint, and other appearance issues as well as declining member fees; and for localities facing the potential for crime and environmental hazards (the theft of fixtures and wiring and stagnant swimming pools breeding mosquitoes are examples) associated with vacant properties.

The Commonwealth has provided a variety of methods for responding to various aspects of blighted or derelict property. For the purposes of the work group these may be categorized under the following headings:

- Grants of Authority to Abate Nuisances Generally
- Grants of Authority to Respond to Special Types of Blighting Conditions
- Procedures for Dealing with Tax Delinquent Properties
- Vacant Property Registration Authority
- Spot Blight Procedures
- Redevelopment by Housing Authorities
- The Derelict Structures Fund
- Part III of the Uniform Statewide Building Code—the Virginia Maintenance Code.

Nuisance Abatement Generally

Among the general powers of local governments set out in Title 15.2 are a number of grants of authority to undertake remedial actions—including judicial or administrative steps--addressing nuisance abatement, weeds, and certain structural hazards. These generally focus on conditions that in some way—either because the structure itself or the presence of substances or conditions of the property—present a clear and imminent, immediate threat to life and property or public health and safety. Localities can recover

the costs of the remedial actions from the owner of property and may be able to apply liens against the property to assure an offset of the public cost.

Special Types of Blighting Conditions

Several different titles of the Code also provide grants of authority for localities, law enforcement entities or even citizens to initiate actions intended to address specific property-related conditions that present a threat to public health, safety or welfare or otherwise constitute a nuisance. These relate to drug-related activities on a property, bawdy places, and alcohol related nuisances. Many of these are of long-standing in the Code and may have limited practical utility. Only those in Title 15.2 that specifically empower local governments provide for an administrative process that includes both notice provisions as well as the opportunity to charge the owner for the cost of remedial actions taken by the locality and place liens against the property to ensure local cost reimbursement.

Tax Delinquent Property

Tax delinquent properties present a special challenge to localities. If they are vacant and in poor repair, they represent a potential cost to any locality that may have to act as a last resort to protect public health and safety. Simultaneously, they shrink the resources needed to respond to the problems that may be associated with their presence. In recent years, the General Assembly has somewhat streamlined the process that localities may use to deal with properties that constitute nuisances and that meet the statutory standard for delinquency. Special provisions relate to properties that a local building official has condemned. The statutes also allow the transfer of title of certain low-value properties to a locality where the cumulative value of delinquent taxes, nuisance abatement liens, and penalties exceed fifty percent of the assessed value.

Vacant Property Registration

Clear statutory authority for vacant property registration is available only to cities and in one special case for the Town of Pulaski in a conservation and rehabilitation district. Cities can offset their administrative costs up to \$25 per unit annually and levy

fines of \$50 (\$250 in conservation or blighted areas) for noncompliance. As the number of vacant properties swells because of the increase in foreclosures, more localities may be interested in identifying properties that are vacant for a year or more in order to target code enforcement and take other actions that help preserve communities adversely affected by the presence of vacant residential properties.

Spot Blight

At Special Session II in 1994, the General Assembly enacted the “spot blight” provisions that form the basis of the current law with respect to this approach to remediating individual blighted properties. This gave localities without redevelopment authorities as well as housing authorities themselves certain powers to respond to individual blighted properties as opposed to the more traditional approach of designating redevelopment or conservation districts and then following up with the subsequent acquisition and demolition of unsalvageable properties and the reassembly and repackaging of land for redevelopment. The underlying rationale for this approach was that by taking a more proactive stance with critical individual properties, communities could eliminate the seeds of future blight before they led to the decline of a community. Without the ability to pursue such a proactive approach, communities could ultimately need more extensive and costly public and private interventions. The method includes extensive notice provisions and opportunities for property owners to correct problems and forestall the ultimate authority of the locality to acquire a property. It also prohibits the acquisition of occupied residential properties

Local housing authorities also received additional powers in 1979 to acquire blighted single- and multi-family properties within their areas of operation. Although the process parallels to some extent the spot blight provision previously mentioned, it has somewhat fewer operational restrictions. However, it is limited in the locations where it could be practically applied.

Traditional Redevelopment by Housing Authorities

The primary redevelopment tools available to local housing authorities under the current Virginia statutes give them the power to establish conservation and redevelopment areas. While they retain the power to acquire blighted properties within such areas, subject to a number of procedural reforms that took effect in 2006, they will no longer have the ability to acquire non-blighted individual properties within such areas.

Derelict Structures

The state's most direct approach to dealing with "derelict" structures came with the passage of the Derelict Structures Fund legislation in 1999. This set up a program—currently unfunded—providing grants to localities specifically for the purpose of acquiring, removing or repairing derelict structures. This built upon a previous 1996 budget-initiated program creating an abandoned housing fund. This source provided localities with limited matching funds to acquire and demolish or clear abandoned housing. This, in turn, followed an earlier (1994) budget initiative providing local site clearance matching funds in larger urban settings.

The Building Code

Virginia's Uniform Statewide Building Code has been evolving over the years to provide means for facilitating the re-use of older, existing properties and providing a uniform set of regulations that localities can use to assure that buildings remain safe and do not become blighting influences on neighborhoods. Part III of the USBC, the Maintenance Code, includes provisions for the operation of rental inspection programs and for securing buildings determined to be unsafe. The emphasis on meeting minimum health and safety standards distinguishes the USBC from other approaches. A vacant building may be brought into compliance with the building code—protecting the public against various hazards associated with the structure—without addressing other aspects of the property that might be perceived as blighting influences on a community.

To summarize, state enabling legislation has provided a variety of approaches dealing with blighted or derelict property. However, it should be obvious there is no single magic bullet that will fit the circumstances of every community. Indeed, the recent foreclosure explosion reinforces the need to examine the available toolkit and see if adjustments are needed or even a new set of tools to help our localities restore and sustain viable and attractive communities.

On Matters of Terminology

As I have been speaking about the various community development related statutes, you may have noted the references to blighted or derelict properties. We have included a brief table that references some of the key terms related to blighted and derelict property. What you may also notice in reviewing them is that they tend to interrelate with one another. Thus, “blighted property” in the redevelopment statute is linked to “spot blight”. Yet there are also important distinctions among some of the terms. The definition of “blighted property” in the recent eminent domain statute is effectively more restrictive in its application than is the same term as applied in the redevelopment statute.

Perhaps of most interest to this work group, the very term “derelict structure” as used in Title 36 equates derelict status with vacant structures whose condition blights the neighborhood in which they are located. While this criterion is probably sufficient to help in drafting regulations for the distribution of program funds, should they become available, it lacks some of the specificity that might be needed to structure effective local responses that are more regulatory in nature.

While we all probably have a mental image of what we mean when we use any of these terms, it would be well to give more formal consideration to the meaning of “blighted property”, “derelict structure” and other terms as well as the differences or lack of differences among them.

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